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Marketization of employment services

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Historical insights and inherent dilemmas

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&

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1. Introduction

Market governance and market mechanisms have for a number of years been seen as an important alternative or supplement to the traditional governance of social and employment services in many OECD countries. Hence, since the late 1990s OECD countries have contracted out their formerly public employment services and introduced varying forms of markets of employment services. The marketization of employment started in Australia and the Netherlands in the 1990s and Great Britain, Germany, and Denmark together with a number of other countries began market reforms in the early 2000s (Greer et al., 2017). Therefore, as we will demonstrate during this report, we do have quite some experiences with the introduction of market solutions.

The introduction of marketization of PES were in the outset accompanied with high hopes as it was argued that more market competition could promote more efficient, innovative, less bureaucratic and tailored services. If we look at the existing literature and evaluations examining these market trends the last years it is not overly optimistic in relation to fulfilling the above-mentioned potentials of using marketization in the employment services (Greer et al. 2017, Larsen and Wright 2014, Wiggan 2014, Considine et al. 2019). On the other hand, a strand of managerialist policy literature has emerged, promising that marketization can “probably” live up to its billing (Bredgaard and Larsen, 2006, 2007; Larsen and Wright, 2014). The point of departure for this report is to move beyond this distinction between marketization of employment services as something “good” or “bad” when studying these ongoing and widespread processes. Instead, we want to recognize that the marketization of employment services can take many forms. Therefore, whether market solutions can be regarded as efficient or not depends largely on the concrete form that the market takes e.g. how employment services are contracted out and different modes of transactions.

Based on ongoing research and empirical insights from a number of countries, the report aims at making the dilemmas and trade-offs - that are an inescapably part of various examples of marketization processes - visible. Thereby we recognise that no type of governance is beyond such issues of inherent dilemmas and trade-offs and it is difficult to make the inherent logic in market governance work in practice. By making these dilemmas visible, we also recognize how marketization of public employment services not only has fundamental and wide-ranging implications for policy direction. It can also have significant effects for service delivery agencies, front-line workers, and the unemployed – although marketization is often presented by decision makers as being “technical” and “apolitical” (cf. Brodtkin, 2006).

In order to bring forward and clarify these analytical points we direct attention to current as well as historical experiences and challenges associated with the introduction of market solutions in Australia, The Netherlands, Germany, The UK and Denmark. A number of these countries have been pioneers in this policy area and, furthermore, they represent a diverse group of cases on how marketization of employment services can take place (different forms of marketization). Providing insights from five

different country cases allow us to reach a better understanding of the developing trajectories of marketization. Furthermore, it indicates how a number of inherent dilemmas in this field are not unique to one specific national setting: We have to do with more recurring dilemmas that take place across time and space.

The report is based on ongoing research in this policy field (conducted by the two authors of this reports together with co-authors). The research is based on an extensive amount of qualitative and quantitative data sources conducted over a number of years. Furthermore, the report draws on literature and evaluations conducted by other others in this field the last 20 years. For Australia, we draw in particular on Considine et al., 2019 and Bredgaard and Larsen 2006, the Netherlands Van Berkel and De Graaf 2011 and Bredgaard and Larsen 2006 and for Germany, Denmark and the UK Breidahl and Larsen 2015; Greer et al. 2017; Jantz et al. 2018 and Larsen and Wright 2014.

The report is structured as follows: The *first part* briefly describe the various country examples of marketization of employment services. *The second part* outline some of the inherent dilemmas and trade-offs that policy makers are struggling with due to the marketization of employment services. Finally *the third part of the report*, point out a number of themes and research questions that is relevant to address in further research on the marketization of employment services.

2. The developing trajectory of the marketization of PES in Australia, the Netherlands, Germany, UK and Denmark

The literature on marketization of employment services defines and operationalizes marketization trends and related concepts in a variety of ways (see Greer et al. 2017). This variation reflects how marketization can take place in many forms, for examples as different modes of transaction. By marketization of public employment services (PES) in this report, we focus on a change in the way that public authorities fund the services of external providers, i.e. through competitive transactions. Thereby it is also recognise that there hardly ever has been a purely public driven system unaffected by market mechanism or private providers. In many countries, especially the training and activation part of the employment services traditionally have been delivered by semi- or non-public providers (e.g. educational institutions or NGO's). The same is true in relation to the question of whether these services should be completely market driven, which in practice never would be possible as the public purchaser is the one and only buyer on such a market. Hence, when studying marketization it is as such not a question, whether it should be public or non-public driven services, but often more a question of how the public purchaser of employment services interact with the non-public providers. Therefore, it is often a question of the governance logic and how this forms the transactions between the public institutions and the non-public providers.

2.1 Australia

Australia was a pioneer among the OECD countries to fully competitively tender its public employment services, which it did under what was called “Job Network” in May 1998. The job network of providers consisted after the first round of tendering both of a government owned providers and for-profit and non-profit providers, with the non-public providers winning two-thirds of the market. The first phase of marketization was based upon a mix of service fees and performance related payment made according to the assessed level of disadvantage of the clients. The second phase from 2001-2003 intensified the market competition logic, among other by extended price competition, which also meant that the non-public providers took over 90% of the market (the public owned provider closed down just after this phase in 2003) (Considine et al. 2019).

The very competitive model that was made up until 2003 forced many of the providers to “game” the system to collect payments, reduce costs and minimise the financial risk. This gaming of the system from the providers created three types of recognised problems: 1) Creaming and Parking of clients, 2) creation of phantom jobs (non-existing jobs or jobs of a duration exactly matching the payment model) and 3) a very lenient approach to the legislative demands of conditionality. Furthermore, the very competitive model increased the transaction costs for both purchaser and providers, especially in relation to the frequent tendering processes.

Although there were other reasons as well, these problems led to a much more public regulated model from 2003. This modified model entailed much greater specification concerning the content and frequency of services and measures to ensure that clients were meeting their conditionality requirements. Furthermore, price-competition was abandoned in the tenders and the competition became instead based upon “past performance”, which was measured by a new star rating performance measurement system. The star rating became based upon a confidential regression and determined the market share of the providers. It also reduced the level of tendering (and transaction costs) considerably as 60% of the contracts in 2003 automatically were renewed increasing to 90% in 2006 (Considine et al. 2019). Hence the public regulation of the market heavily increased from 2003 and forward.

These rather remarkable changes within a short time frame (1998 – 2003) demonstrate paradoxically how Australia was the first country to introduce a full-scale market model for the employment services, but probably also the country that have gone the longest in relation to the degree of public regulation of the selfsame market. Some of the explanation for this development was the identified lack of individually tailored services, more innovative methods and benefits from closer contact with business enterprises. These expectations turned out to be a disappointment for the authorities as the Job Network did not produce the level of flexibility predicted. This is by the way parallel to the developments in many of the public employment services in other countries. The problems were the public purchaser’s prescriptive approach to regulate transactions within the market, comprehensive contractual specifications and an IT-based detailed monitoring system (Considine et al 2019.). As quoted by Considine et al. 2019 this had

given rise to an ‘inflexible’ pattern of outsourced services’ (Finn 2011: 13) where “‘personalised service’ [was] the exception, rather than the norm’ (Marston and McDonald 2008: 265). The challenge in this system generally was that the providers’ way of staying in business was to respond to the administrative demands of accountability rather than developing new approaches targeted their users. The risk of not following the standardized approach was simply too high for the providers (Bredgaard and Larsen 2008). A consequence of this was further that the differences between the profit and non-profit providers approach became very small.

Since then have a number of reforms been enacted as an attempt to mitigate some of these identified problems: The first reform named ‘Job Services Australia’ was applicable from 2009-2015 and a second reform named ‘Jobactive’ was introduced in 2015 (planned to continue until 2022). Both reforms recognize the lack of flexibility and have primarily been targeted towards designing services that are flexible tailored to the long-term unemployed (Considine et al. 2019: 3). The reform in 2009 introduced a new funding model that gave the providers incentives to focus on the hard to place unemployed and the way of measuring performance became less focused on the “command and control” relationship’ that had characterised the later years of the Job Network (Finn 2011: 20). The services were further to become less punitive, more user-involving, integrated and holistic (Considine et al. 2019). The reform entailed a huge turnaround of the market (with 320.000 clients changing providers) as services was to be reformed and redistributed through the tendering model. The consequence of this was very high transactions costs for both the public purchaser and the providers. As we will discuss later on, this point to the dilemma of how such a more open and less steered market often creates higher transaction costs. Not only the tendering processes but also the purchasers lack of information about the more tailored and less standardized services increases the demand to monitoring the system and do gradually put pressure on making more specified contracts as well. Hence, the transaction costs increases. At the end of Job Service Australia in 2015 the annual costs for administration was 21% of the total money spend on employment services.

While the 2009-reform was introduced by the labour government, the 2015-reform was launched by a new conservative government. The primarily aim of creating more flexible services was quite similar to the previous 2009-reform, but other type of initiatives and more conditional services was also introduced. Besides making the providers bid on different service models make them deliver more flexible services the reform was also inspired from the UK Work Program by increasing the duration of the contracts and making bigger lots as a way to reduce transaction costs (Considine et al. 2019). Furthermore, also here inspired by the Work Program in the UK, the performance related payment increased. However, as we return to in the final sections, these changes may reduce transaction costs but do create another dilemma, namely that services become delivered by few for-profit agencies, while smaller non-profit organisations are squeezed out of the market. Furthermore the high financial risk in the payment model make the providers stick to the tested and tried methods, which generally is to make standardized low cost services to reduce risks.

As demonstrated in the studies of Considine et al. (2019), who have made longitudinal survey of frontline employment service staff in 2008, 2012 and 2016, the problem of standardization is nearly consistent throughout the period despite the various reforms aimed to create more flexible services. Standardization seems to get locked into a quasi-market regime as the Australian (Considine et al. 2019).

2.2 The Netherlands

The Netherlands introduced (similar to Australia) a full-scale market model for employment services with the SUWI-reform in 2001. New “one-stop-shops” or job centers, Centre for Work and Income (CWI) was established and took over the responsibility for the first contact with newly unemployed people and their possible job placement in the first 6 months of the unemployment period (if not in risk of being long-term unemployed). After that (or being in risk of long-term unemployment) the unemployed was transferred to the insurance funds, UWV (if insured) or the municipalities (if uninsured) for further activation measures. Both the UWV and the municipalities were then obliged to tender out all of these activation services to non-public (primarily for-profit) providers, though with the municipalities having a 20% exception for the most vulnerable groups. Consequently, the former public employment services were divided and dissolved and the part responsible for activation measures became an independent company (KLIQ), which equally had to compete on equal market conditions (Sol and Hoogtanders 2005). This privatised unit, similar to the one in Australia, continuously lost market shares and has since been purchased by one of the biggest private providers. The philosophy behind the SUWI reform was to reduce the role of the state and to de-regulate the market – based on the assumption that the market was self-regulated (Koning 2004).

However, some of the problems inherent in such a full-scale market model for employment services also became evident in the Netherlands. It turned out to be very difficult to rely on market mechanism in itself as the guarantee for free market conditions also was high public regulation of the selfsame market. One of the problems was in this respect the very high transaction costs related to the tendering processes. These costs came from making tendering materials, assess incoming bids, enter into contracts and not least making the subsequent monitoring of the providers services, in which the latter also became quite an important task in the payment of the providers which relied on a “no cure no pay” model (and later on a “no cure –less pay” model). Especially the 450 municipalities had severe difficulties in living up to the EU procurement legislation and doing the monitoring of the providers, but also the insurance funds had their difficulties.

The demand for public regulation and monitoring of the market became even more pressing as the very competitive market created public discussion on problems of especially creaming and parking and poor services in general. The major problem was that the competitive market (and the performance related pay model in particular) made this a very risky business for the providers. As expected in a competitive

market the prices over time decreased significantly and the performance related payment model further increased the providers' risks of making investment in services. To minimise risks the providers instead choose to lower costs and if making investments in services only doing this for the clients with high probability of getting into employment afterwards. As seen in Australia as well, the providers furthermore had a lenient approach to the conditionality approach leading to less sanctioning for breaching obligations when unemployed (Bredgaard and Larsen 2006).

These problems with especially creaming and parking, but also the lenient approach to conditionality increased the demand for public regulation and more and more demands to the providers' services became written into the contracts which again increased the demand for public monitoring. Especially these high demands for public regulation of tendering processes and monitoring of services are the main reasons put forward by key actors for why the market model gradually since has been rolled back in the Netherlands (Larsen 2009).

The municipalities, which struggle the most with these tendering and monitoring processes, do a lot of lobbying to modify the demand for tendering out 80% of their employment services. This is further intensified with a new budgetary reform for the municipalities launched in 2004. Quite similar to the Danish case the municipalities becomes economic responsible for bringing their clients into employment. If successful, the municipalities can use saved money for other purposes and opposite they must in case of unsuccessful employment services finance the deficit themselves from other sources. The municipalities are successful in their lobbying for more autonomy and they are allowed to decide themselves if and how they will tender out services to private providers. Since then the use of private providers has decreased significantly, but they are still used, but often for much more specialized services. However part of the continuous use of private providers also have to do with years of tendering and that the municipalities do not anymore have the capacity to deliver the services themselves. After have been focusing on the administration of tendering processes for four years it's difficult for the municipalities again to have to deal with human-processing tasks designing and delivering individual responsive services (Van Berkel 2009). Therefore, many municipalities in the late 00's start processes to re-professionalise their staff which is a huge turn around for these organisations (Van Berkel 2009).

The services for the insured unemployed in UVW (insurance funds) followed later on the trend from the municipalities. The way was paved with the reform in 2009 where the Centers for Work and Income (CWI) were merged with the insurance funds (UWV) into one joint state run employment service (UWV Werkbedrijf). The uninsured unemployed are still registered here, but are immediately hereafter referred to the municipalities. Similar to the municipalities the UWV Werkbedrijf can decide how much they will tender out services, which also have resulted in a significant decline in the use of private providers and like the municipalities a re-professionalisation of staff have taken place by recruitment of job- or work coaches.

In general the market model introduced in the SUWI reform in 2001 has been modified and rolled back. However, it is important to note that there still is a market for employment or reintegration services. Up till recent years one reason for this was the individual budgets (IRO: Individual integration contracts), which made the unemployed themselves buy services. The individual budgets have since been abolished. Another reason for a still existing market (beside the public use of private providers) is the employers' obligations in case of redundancy where they are obliged to make reintegration services in the first period of the unemployment period. There is here a market for private providers. Finally the public services have lack of capacity for delivering, and the traditions for using non-public providers, means that a market for employment services still exists. But the full scale model introduced in 2001 has been rolled back, and cuts in spending to employment services in general (among other due to digitalization) also contributes to that the market has been significantly reduced.

Consequently, the beliefs in the withdrawal of the state as a mean to make better and cheaper employment services are no longer present in the Dutch system. In practice this philosophy showed out to create huge administrative burdens when such a market should be regulated and monitored. The main problem seems to have been the loss of possibilities for public steering and control, which is an inevitable part of a public financed and political steered system and the shortcoming in only using incentives as steering mechanisms for doing so. However, this doesn't mean that the use of public providers in itself can be assessed as a failure. They are still an important part of the system, now with much more specialized services, and there are still relative many providers. Hence it's probably more the thought of the total marketization of the system in itself which has shown to be hard to realise in practice. The Dutch model can after the reform of the market model be characterised as a hybrid, where the public employment services have been re-established, at the same time as the private providers still deliver services. This is a mix of traditional public and market steering, which makes the Netherlands an interesting case.

2.3 Germany

The turning point for the introduction of marketization trends in German employment services was the 'Hartz' reforms enacted between 2003 and 2005. 'Third parties' have traditionally been involved in providing employment services, often delegated to providers operated by churches, secular charities or social partners. Providers of vocational training were run in close connection to either trade unions or employers' organizations and business chambers. Therefore, marketization in Germany did not refer to further privatization; instead 'the market' was to shake up existing relationships between the public employment service and external service providers with the promise of modernizing the services.

The Hartz reforms created two routes for marketization: 1) legal requirements to purchase certain services under procurement law and 2) the mandatory issuing of vouchers to clients for other services. In the first case, the state creates a quasi-market through calls for tender; in the second case, clients equipped with vouchers are expected to exert choice in a 'consumer market'. Subsequent rounds of

‘instrument reforms’ expanded the number of instruments subjected to marketization in either of these two modes, and the share of spending either through procurement or through vouchers grew to more than 70 per cent of total ‘active’ spending until 2013 (Greer et al. 2017).

In order to understand the procurement law one must take the set-up of the German PES into account as it resulted from the Hartz reforms. The controversy over the governance of the PES was resolved by a compromise leading to the division of the PES into two tiers (see Knuth 2009; Knuth and Larsen 2010). The first tier is responsible for claimants of contribution based benefits called ‘unemployment benefit I’ – normally lasting one year – administered by 156 local offices of the Federal Employment Agency known as employment agencies. The second tier is responsible for claimants of the newly introduced minimum income benefit known as ‘unemployment benefit II’ or ‘Hartz IV’ administered by 404 local ‘Jobcentres’. The Federal Employment Agency has organized its procurement operations in five Regional Purchasing Centres. For the employment agencies, being local branches of the Federal Employment Agency, the use of the REZ for their procurement is mandatory. For the Jobcentres, being joint ventures of the local employment agencies and their geographically corresponding municipalities – and as such being legal entities of their own –, the use of the REZ is strongly endorsed but not mandatory; they may run their own procurement service or use the respective expertise of their municipal partner (or all three channels in parallel). It is presumably with regard to being attractive for the Jobcentres that the procurement process, though centralized, is organized very much bottom-up.

Each individual procurement process is initialized by the local units, i.e. employment agencies or Jobcentres, who define which kind of services they want for a particular group of their clients. When defining their demand, local units can choose from a catalogue of pre-defined services listed and frequently updated. The REZ will then draw up and publish the call for tender. They will receive the incoming bids, and they will make a formal check regarding completeness of the documents and eligibility of bidders to participate. Like the participants in the voucher market, bidders must be certified. The bids are then sent out to be evaluated by the local units by whom the services were demanded. The local evaluators know which organization is the bidder but they do not know the price of the bid. Evaluation is done using a strictly formalized grid which feeds into a decision algorithm defining a layered combination of quality and price.

Research have shown how this formula combines downward price pressure (only modest pricing will give the chance to be in the final corridor), maintenance of described quality (low quality scores function as knock-out criteria) and the Federal Employment Agency’s selling argument that finally ‘quality wins’ (though they do not disclose figures how often this is the case within the corridor).

Lots and the resulting contracts are rather small because of their local nature, the specification according to legally defined instruments, further specification by target group, and short durations for usually only one entry cohort. It is only the option for prolongation without tendering that gives providers some –

though uncertain – time perspective (Greer et al. 2017).

Voucher arrangements have been relatively static. Job placement vouchers follow a simple payment-by-result logic, with prices and other parameters fixed in law. This is a marginal market segment as vocational training vouchers are far more often used (Greer et al. 2017). In the vouchers, kind and duration of the training to be received are defined in detail, and the price is fixed in advance in a certification process the provider has to undergo in order to have specific courses accredited for the voucher procedure. There are cost ceilings per participant and hour on each type of training, but there is no real price competition. Providers are paid for defined inputs; they compete, in theory at least, for attracting clients and their vouchers.

The market structure of PES has been rather stable since it was introduced in 2003. The current German provider landscape is therefore a collection of non-profit and for-profit organizations with smaller and shorter contracts (e.g. compared to those in Britain). Consequently, there is a rather high degree of local autonomy and variation in the way that funding is managed, as well as a low degree of centralized control by politicians.

In general the German market for employment services differ from the very state controlled markets in Australia and the UK, with its mix of centrally legislative demands for procurement, the regional procurement offices (REZ) and the local nature of setting up the actual procurement processes (including local evaluation of bids). On one hand, some of the same tendencies (for example the ongoing squeeze on prices) are also present in Germany, due to the centrally defined procurement rules and use of algorithm for decision making. However, on the other hand the local nature of the procurement processes, and especially the local evaluation of the bidder, also makes this a protected market. The transaction with the providers' very market oriented, but it's very difficult to enter the market for new not local based providers. Contrary to Australia and the UK it has not been possible for the big multinational employment providers to win any significant market shares in Germany. The part of the market based on vouchers support this way of protecting churches, secular charities or social partners as providers of employment services and the providers of vocational training affiliated to either trade unions or employers' organizations and business chambers. The German case thereby shows that marketization of employment services can be just as much a change in the transaction with existing providers than necessarily opening up for transferring the responsibility for services to new private providers.

2.4 The UK

At the time of the rollout of the 'New Deals' starting with the 1997 election of a Labour government there was wide diversity in active labour market schemes and providers. The schemes were funded by a variety of sources, e.g. the regional Training and Enterprise Councils (TECs), which were business-led

bodies, and local government. The New Deals were carried out partly in-house and partly by local government, educational institutions, charities, and for-profit companies. These were market incumbents with a history of organizing training, advice, guidance, subsidized job placements, and other services for the unemployed. While the New Deals created a sudden shift in requirements for job seekers – initially young ones – and increased the scale and political salience of labour activation schemes, they did not immediately alter the landscape of service provision.

From 2000 to 2010 the market evolved toward greater centralization and privatization. Experiments with private-sector contracting came about when the New Labour government began to experiment with new methods of commissioning, most notably through ‘Employment Zones’. In this for Britain seminal marketization scheme private providers carried out services for long-term unemployed people in 13 of the country’s most deprived areas.

The evaluation evidence concerning private-sector involvement was mixed, but there was a strong political will to move ahead with it. Sensing an opportunity for increased contracting business from the government, the non-profit Association of Chief Executives of Voluntary Organizations (ACEVO) joined the mainly for-profit Employment Related Services Association (ERSA) to lobby for more privatization. There was a strong political consensus supporting private-sector involvement, and the government created Working Links, a for-profit firm, as a joint venture between the government, Manpower, and Ernst & Young Consulting.

During this period there was also a centralization trend in government. After 2007 the Labour government moved the contracting function into central DWP offices, bypassing the local Jobcentres, and reduced the number of organizations with which it directly contracted. This was motivated by parallel drives to reduce the number of contractors and professionalize the procurement function (Gershon 2004). In its final years the Labour government created a new ‘Flexible New Deal’ with larger contracts and payment by results. At the same time, governments reduced alternative sources of funding, with the abolition of regional Learning and Skills Councils in 2008 and initiated severe funding cuts to municipalities thereafter.

A Conservative-led coalition government came to power in 2010 and, advised by the same David Freud whose report had informed the previous government’s policies, pushed the same principles even further. Hence, in 2010 it abolished the Regional Development Agencies, which were an alternative source of funding for locally targeted welfare-to-work schemes. In 2011 the DWP’s service delivery arm, Jobcentre Plus, lost its status and formal organizational structure and was demoted to a ‘brand’ within the department. The new government cancelled several of Labour’s activation programmes, including the Flexible New Deal and Pathways to Work (the latter for the disabled) and replaced them with the Work Programme, also rolled out in 2011. Because the Work Programme contract lasts for up to 7 years – five years of operating, plus two of claiming outcome payments – it introduced a framework for much of the employment services sector.

One very early move by the government was to establish a small group of prime providers, with which it would have direct contracting relationships. The prime providers are large organizations, mostly for-profit, multinational corporations. While the largest players are welfare-to-work specialists such as A4e, Ingeus, and Working Links, there are also generalist government contracting firms such as SERCO and G4S that were absolute newcomers to employment services when they were picked for the Work Programme.

The British employment services are unusual due to their high and increasing degree of centralization and the role of large private firms. The DWP in 2016 contracted directly with 18 ‘prime’ contractors at the national level and just over 50% of market share was held by four multinationals: Ingeus, A4e, Working Links, and G4S. The firms managed contracts with just over 800 nonprofit, public-sector, and for-profit subcontractors. An important feature of this way of contracting was the discretion that prime providers enjoyed to design services. Rather than prescribing particular processes, the government chose to give providers complete discretion in how they organized services. This was done in order to encourage bidders to innovate, i.e. to develop something different from what the government had already devised. This form regulation became known as the ‘black box’. A name that comes from the wide discretion enjoyed by providers in designing services and a low degree of government oversight. In principle the government pays for results, i.e. sustained outcomes, and not for inputs, such as trained staff, buildings, and computers, which were specified in detail under previous DWP contracts. Prices in the Work Programme were set through a complex indicative price structure based on age and benefit claimed (JSA versus ESA), which serve as proxies for clients’ distance from the labor market, and by a discounting exercise that determined price scores in tendering (Greer et al. 2017).

Compared to some of the previous experiences with marketization of PES the UK model, with its use of prime-contractors and the black-box model especially succeeded in avoiding some of the comprehensive transaction costs seen in other countries. However, the strong performance related payment model had the same consequences as seen elsewhere in relation to lack of investment in services (and standardised services) and an extensive creaming and parking of clients. The problem is that providers are under pressure to minimise risks, which is best done by minimising the costs for services. Some clients will find jobs without any service (natural occurring employment effects), some will predictably have severe difficulties finding employment (and investments in these groups will besides being costly also often be wasted and some) and some will need limited services to increase their probability to get into employment. The freedom to decide upon services and the performance-related payment model will put the providers under pressure to lower costs on services and invest in only the affordable clients and thereby minimise their risks in a very competitive market with decreasing prices.

It has for this report been difficult to find information about the recent developments of the UK market for employment services. We though know that the work programme is on its way to be out phased and

replaced by much smaller scale programs, and that more money and autonomy is located to regional and local levels. The way of organising services seems so far though still to be dominated by the UK black-box way of contracting out services.

2.5 Denmark

The major marketization process in Denmark started in 2002. Due to criticisms of the public employment services as being excessively bureaucratic, expensive and ineffective, the center-right government proposed the partial marketization of the employment services. The regional PES were given free rein to organize contracting out, deciding what types of service and target groups of unemployed to contract out and which pay models to use. Their only obligation was that at least 10 percent of the unemployed should be in services fully or partly provided by non-public providers. Consequently, this *first wave* of the marketization of employment services was almost unregulated by the national authorities. The market for contracted services grew significantly after its initial creation, invigorated by the mandatory obligation to contract services out for the unemployed. In 2005, around 46% of all insured unemployed persons were transferred to non-public providers (Bredgaard and Larsen, 2008). The project of creating a “market” succeeded, although the national audit office and other evaluations criticized the lack of transparency and proper price competition (Rambøll 2004).

Thus, a *second wave* of marketization occurred following the discovery that it was difficult to establish and legitimate accountability relations (in relation to how the regional authorities engaged with non-public providers) while at the same time documenting cost savings (price competition) and innovation (Rambøll 2004). Obviously, there was a dilemma with respect to how to create “free” market conditions capable of promoting both lower prices and innovative solutions. In response to criticism forwarded by the Danish National Audit Office in particular, a new reform was therefore launched in 2005, introducing a strong central (national) regulation of the market and making national tendering with a focus on strong price competition and 80% performance-related payment compulsory. Market incentives were thus enforced, while at the same time more “traditional” public regulation was put back in place to re-regulate the deregulated market (Breidahl and Larsen, 2015). A more transparent and competitive market needed to be followed by public re-regulation as the public authorities wanted to gain greater control over the type of tasks and target groups being contracted out to non-public providers. The reform nearly halved the number of unemployed persons being transferred to non-public providers.

The national tendering and performance-related payment model were mandatory up until 2011. Although the model was argued to improve effectiveness and efficiency, the results were disappointing. The combination of high-price competition, high risks for providers (waiting up to 6 months for full payment), and the drive to create short-term employment outcomes led to poor services from many of the private providers. Instead of the expected innovative market providing individualized services to the clients, the result was a market with standardized services with providers mainly offering interviews and job-search activities. Hence, the market came to compete on provider costs for services rather than innovative

solutions. This was especially a result of the performance-related payment model, as many of the providers realized that a job outcome would occur even with a minimum of efforts (especially for the easiest to place). Although there were variations among the providers, media-reported “scandals” revealed examples of inferior services for the unemployed. This gave for-profit service providers a bad reputation and undermined the confidence in market solutions among political and administrative decision makers.

The *third wave* of marketization took place from around 2010 and was related to another reform, which dissolved the PES and transferred employment services to the municipalities. As municipalities had previously only little experience with the marketization of employment services and had only contracted out very limited parts of their services, the government feared this would harm the marketization process. And rightly enough, it seemed, as the market for transferring unemployed persons to market providers declined as a consequence of an experiment allowing some of the municipalities to assume responsibility for employment services from 2007–09. In 2009, economic incentives for the municipalities to bring the unemployed into activation (for as much of their unemployment period as possible), at the same time as special economic incentives for using “other actors” were therefore introduced, reigniting the growth of the quasi-market. Furthermore, national tendering was maintained with a mandatory requirement to refer certain target groups to the market-based providers. Hence, with these initiatives, the government was trying to make the municipalities keep up with marketization. The market doubled again and experienced briefly a new “golden” period.

With the fiscal crisis and as part of a national restoration plan for the economy, however, the center-right government in 2010 removed most of the economic incentives for the municipalities to use market providers for employment services, although keeping the national tendering and the requirement to use market providers for certain target groups. The market was under severe pressure due to problems with low quality services delivered by the market-based providers and declining political and administrative faith in such a market. When a Social Democrat-led government came into power in 2011, they decided to dissolve the national tendering and the requirement to use market-based providers for certain target groups. Instead, they solely made this a matter for the municipalities to decide whereby marketization of employment services became less regulated by public authorities. Furthermore, they made it much more flexible for the municipalities to decide on how they will organize the marketization of employment services, including exempting the municipalities from following EU procurement rules.

The extensive decentralization of the market for employment services makes it very difficult to picture how the market has developed in recent years, as there are no overall statistics for the municipal use of non-public employment service providers. However, our empirical data indicates that the market for employment services has declined significantly and there are fewer non-public providers on the market. This seems to be due to less money being spent on employment services in general and the municipalities being more reluctant than central government to use market solutions. At the same time, the results from our national survey indicates a shift in the type of services that are contracted out; from using the non-

public providers for generalized services to using them for more specialized services (Andersen and Larsen 2018). This also involves a shift in target groups for the services to be contracted out, moving from the more easy-to-place to harder-to-place. The national survey further indicates that a new type of locally driven, more partnership-based marketization has definitely taken place, where the purchaser–provider relationship appears to have become more based on partnership and less on contract relations formed by procurement, although there are numerous local variations.

Danish policymakers appear to have lost faith in the potential of large-scale national marketization. According to interviews with central civil servants evaluations have found that contracting out is neither more effective nor cheaper than keeping services in-house (e.g. AMS 2009; National Audit Office of Denmark 2013). The media-driven scandals reporting on very poor services delivered by private providers in Denmark has also had an impact on this shift in the market model, as the limit on the exemption for political and administrative responsibility for the services appears to have been reached. Hence, there seem to be a general political disappointment with marketization in this field and neither conservative nor social democrat led governments have since the municipalisation of the employment services made any initiatives to strengthen marketization of the employment services and the use of non-public providers in the employment services has since 2011 disappeared from public statistics and the open monitoring system jobindsats.dk.

3. Dilemmas and trade-offs in marketization of PES

The overall description of the developing trajectories of marketization of PES in the five countries demonstrates how marketization can take many forms and develop in different directions. Hence, the characteristics of the market differ in a number of ways and have changed over time. Going into depth with the different cases demonstrated how large-scale (full-scale) marketization was initially introduced in some countries (e.g. Netherlands and Australia) while smaller parts and particular groups were subject of marketization in others (e.g. Denmark and Germany). To what extent the different markets have been dominated by for-profit or non-profit providers and the degree of centralization of the market also varies.

In spite of these different developing trajectories it is interesting to observe how a number of dilemmas and trade-offs seem to reoccur across time and space in spite of national particularities. A number of changes have taken place and across most cases we see a tendency which are questioning the oft-repeated assertion that marketization processes represent irreversible projects (Bell and Hindmoor 2009: 115–36; Streeck, 2009). These reversal tendencies have taken place in different ways. In the Netherlands and Denmark, the decision to decentralise the decision on using private providers have resulted in a downscaling of the use of providers. In Denmark, the municipalisation also has resulted in a more partner based approach. The British system has until recently been unusual in a number of ways due to its very centralised structure. These tendencies reflect an attempt to mitigate a number of ongoing dilemmas and trade-offs inherent to marketization of PES. Below we will concentrate on three dilemmas that are

inherent to the marketization trends of PES and which – in varying degrees - have been prevalent in the five countries.

1) Principles of a free market versus transaction costs

The *first* dilemma prevalent in all five-country cases concerns transactions costs: By replacing traditional procedural governance with market governance, and thereby creating accountability through market mechanisms and open competition (see Considine and Lewis 2003), the belief is that public bureaucracy can be reduced. As employment services are still public policies with political objectives and in reality only one buyer, however, it is still necessary to regulate the transaction from public assignment into something similar to a free market. One major problem in this process is the transaction costs. Paradoxically, across the five countries there seem to be increasing transaction costs when employment services are most exposed to market principles. To maintain the principle of a free market, the public authority must continuously generate tendering processes, which include designing tender documents, administering, and assessing incoming bids (including the efforts wasted from both sides in the many agencies unsuccessful in winning bids), negotiating contracts, monitoring services and outcomes, establishing payment according to performance, and so forth. Public purchasers' attempts to overcome creaming and parking can also increase transaction costs. This is generally an on-going process involving high costs and extensive bureaucracy. Many attempts have been made to reduce transaction costs and the public bureaucracy inherent to marketization (Bredgaard and Larsen, 2008, Greer et al., 2017). However, paradoxically it seems as these attempts often result in limiting the scope of the market mechanisms.

Therefore, the consequence is often a paradox wherein the policy-makers promise to reduce bureaucracy while there is still a need to regulate the transaction from public assignment into something similar to a free market (e.g. tendering processes, monitoring services and outcomes). This manifests itself as a process of layering, where the public authorities (although doing other types of work) continue to co-exist alongside the market. A free market (in technical terms) therefore requires more public regulation and bureaucracy.

This dilemma around transaction costs has been prevalent in Australia and the Netherlands for a number of years as the full-scale market model for the employment services was introduced at the outset. The attention towards transaction reached a high level at an early point (Bredgaard and Larsen 2008). In both Australia and The Netherlands, this dilemma was tried handled by increased public regulation and monitoring of the market (Considine et al. 2019, Larsen 2009). In the Netherlands, this was one of the major reasons for rolling back the market model for employment services, while the Australian model contrary continuously has tried to refine the public regulation of the market. This was in Australia up until the mid 00's done in such an extensive way that the most recent reforms have been devoted to make services more flexible again.

This dilemma has also been immense in the Danish case where many attempts at cutting transaction costs have been made over the last 16 years. Here we can observe how contracting out has been followed by

increasing public regulation and consequently increased transaction costs and bureaucracy. As a consequence of the third wave of marketization in Denmark, the need for public regulation, and thereby also transaction costs, has decreased since 2011 due to municipal autonomy. Now we can observe how the municipalities have varying ways of handling transactions, their costs, and their political risks.

In the wake of the Hartz reform, Germany has experienced a stepwise intensification of central control over external providers – an intensification that has not been reversed over the years. The REZen are the principal place in which administration has been built up to manage the market. The BA's aim has been to create a dedicated purchasing function with a professional staff that can design tendering documents and manage the procurement process while avoiding past mistakes. The REZ has taken a number of steps to ensure that the process is legitimate. One is the creation of a formula that determines outcomes of tendering based on quality and price criteria. This allows the BA to counter the criticism that contracts are given based on anything other than objective criteria. It is especially important given the creation of an appeals procedure, in which the BA has the prospect of needing to justify its procurement decisions in court. The consequence has been the proliferation of administration for reporting that the provider is doing precisely what it said it would do in its tendering documents. This required a lot of transaction costs. Another way that bureaucracy has expanded in Germany to ensure quality has been the rise of accreditation arrangements. These already existed from shortly after the Hartz reforms for training vouchers; and in 2012 they were introduced for placement vouchers in response to criticisms of private job placement companies as not necessarily 'serious'. In 2012 as well new requirements were placed to scrutinize costs for training vouchers.

While the government in the UK seeks to reduce the complexity of its own contracting by commissioning work directly from only a small number of large providers, this does not necessarily eliminate bureaucracy and transaction costs. The prime contractors have extremely tight performance management for both their internal staff and their contractors. British employment services providers, however, are shielded from the usual pressures for legitimacy that might lead to change in other countries. Prime providers, in their transactions with their subcontractors, are exempt from public procurement rules, since they are private organizations and not public authorities. In this way, the government can evade responsibility for contracting practices, and contracting can take place along the lines of private-sector supply-chain management. This may eliminate the transaction costs that are specific to public purchasers, but it also increases the arbitrary power of large private firms. Furthermore, the large employment services providers are exempt from the rules to promote transparency in the public sector, including the freedom of information act. This makes them exempt from scrutiny in other areas.

2) Price versus quality/service flexibility

The *second* recurring dilemma concerns the trade-off between reducing prices and at the same time providing more individualized and flexible services. Marketization of PES has in many instances been

accompanied by beliefs in that it can at the same time both lower prices (through price competition) and make services more responsive to individual needs (through performance competition). The idea that high-quality low-cost services can be reached through market competition has also for years been a mainstay of public-sector management rhetoric. Insights from the five case-studies, however, demonstrate that squeezing prices in many ways instead have led to standardized services that fail to meet the complex and changing needs of the clients of employment services. On one hand squeezing prices lead to perverse incentives and drains resources of provider, on the other hand price and quality based competition before delivery leads to the difficult task for the public purchaser to define and assess quality before the work has been carried out.

Public authorities in the five countries have tried to mitigate these problems in different ways. In some cases, we can observe how the way that quality is measured has been changed. In other cases tighter regulation and monitoring has been introduced, where the latter obviously increases the costs of running such a system on the side of the purchaser (Larsen and Wright 2014).

As the description of the developing trajectory of marketization in the five countries demonstrates, price competition between providers has been very hard, as price in the applied market model has been the most important selection criteria thus far from the public purchaser. The innovation of new services and the methods applied were therefore very limited and slightly targeted at the individual unemployed person. Instead, most services were standardized around meeting clients and in-house job-search activities. The country cases therefore demonstrate how it can be difficult to both enhance quality and price at the same time and how hard price competition as a result of the performance related payment model led to problems with innovating and targeting individual needs, as the providers mostly tried to live up to minimum requirements in the contracts.

This dilemma became at an early point prevalent in Australia and the Netherlands. A number of changes have taken place in order to mitigate this dilemma. Hence, in both the Netherlands and Australia prescriptive services were made part of the contract and measurement system (in Australia as part of the star-rating system). In Australia, the invention of the star-rating system furthermore made it possible for the public purchaser to pay attention to the providers' past performance rather than just making price the only criteria for assessing bids. The prescriptive services put into contracts and the following measures of how the providers live up to these have, however, created another problem quite similar to the ones experienced in the public bureaucracies, namely that such tight regulation also hinder innovative and flexible services. The recent years' reforms of the market model in Australia have paid attention to this dilemma trying to give the providers more freedom to design and deliver services, but it is a continuous dilemma the market model needs to mitigate.

The many changes that have taken place in Denmark also in many ways reflect the prevalence of this dilemma. Under the second wave of marketization, price competition between providers was very hard,

partly in response to allegations of profiteering during the first wave. Price became the most important selection criterion and quality assurance took the form of performance-related pay and a requirement that clients should 'be in activation' 40% of the time. The legislation kept the exact description of the work vague, i.e. some form of subsidized work, training, education, and job search activities, with considerable discretion for providers in designing the services. Because the providers themselves had to pay for all types of activities most of them chose to only offer low cost activities often in form of job search activities. Because of price and performance pressures, combined with a lack of firm definitions of what such activities could be, provision became highly standardized. It took the form of meetings to process people through the system and job search activities. After 2011 under abolition of the national tendering system, this dynamic changed due to the abolishment of the national tendering model: In many municipalities were price competition reduced while the emphasis on service quality, including specialized and individualized services increased. Simultaneously there was an increased dialogue- and partnership collaboration between the purchasers in the municipalities (where most of the municipalities assess that the relation to providers has become more partnership-based) and the reduced use of tendering. More and more municipalities seem to prefer less price competition in more partnership based relations attempting to create more innovative and individualized services.

This dilemma is also in many ways prevalent in the German cases where prizes in some cases have been squeezed remarkable which has led to quality problems (Greer et al. 2017). This matter to the extent that clients' needs change over time and past methods used to innovate, in particular place-based networks of nonprofit providers, are corroded. The standardized job outcome cannot normally be used to assess tenders, because job placement is not part of the service being purchased. In order to make prices comparable inputs rather than outcomes are used. Tender documents specify the services to be delivered in great detail, in terms of both quantity (e.g. hours of instruction) and quality (e.g. professional degrees and experience of staff, characteristics of the premises). Contracts tend to be small and tightly defined for particular locales, target groups, and legally defined instruments of active labour market policy. Often they are standardized by the REZen, whose procurement services include the definition of standard products. Indeed, to the extent that innovation takes place, it is here in the definition of programmes by the REZ. This tendering system tends to paralyze providers' capacity as innovators. Providers have to respond to the detailed tender description; if they promise innovative service elements up and above the tender description, they face the dilemma of either having to implement those elements free of charge or of pricing themselves out of competition. While there is some scope for providers to organize services according to individual needs, they face strict financial constraints of contracts.

The introduction of the Work Programme under the coalition government (2011-2015) in UK exemplifies the attempt to resolve the tension between price and quality by giving large providers high levels of discretion and steering them using financial incentives. Quality was redefined as the number of job outcomes. The process through which they were achieved was deliberately obscured as part of the

‘black box’ approach to contracting. The shift away from purchasing clearly defined products from the market towards an intensive use of incentives to manage the market was motivated by a desire to maximize outcomes using knowledge not available to the public purchaser. This strategy to extract outcomes for low prices presupposed giving private-sector investors some sense that they would recover their investments, i.e. that profits could be realized. At the same time of a recognized need for profits, there was considerable price-based competition. Price pressure, mixed with high levels of discretion, led even more than in Denmark under the second wave of marketization, to standardized mass-processing models of provision.

3) Payment by results vs equal access to services

The third prevalent dilemma we will pay attention to in this report concerns how to find the right parameters to compete around and still create a market that fulfills policy objectives? A key element in creating a market and implementing marketization processes is to create “competition”. It is, however, not that easy to find the right parameters to compete around, and several possible solutions can be taken, including the free choice of the user and by using pay for performance. These solutions can result in a number of implications for the unemployed.

In principle, market governance is based on the relation between the service provider and the client (or consumer), where the client’s choice of provider is to ensure that only the best providers (with the highest quality of services) survive as service deliverers. However, the “market” in this context a quasi-market, is not a conventional market (cf. Le Grand and Bartlett 1993). This means that unemployed clients can in some cases be represented in the market by a public purchaser. One problem is the lack of trust in the ability of the client to make an informed and qualitative assessment of the quality of the provider’s services. Another problem related to making the clients act as consumers is that employment policies normally encompass an element of regulatory requirements or disciplining elements, which often can be opposed to the perceived preferences of the individual client. Hence, the most popular service providers among the clients (e.g., those not reporting clients breaching obligations for being available to the labor market) are not necessarily the best in relation to political intentions.

In most countries where the marketization of PES has taken place pay for performance has been the typical solution to maintain a kind of market governance. This solution, however, creates new problems in regard to creaming and parking when implemented in different ways in the five countries.

When the full-scale market (based upon a strong performance related payment model) was introduced in Australia and the Netherlands creaming and parking of clients inevitable became a part of the providers’ way of minimizing risks. Interviewing providers in both countries this approach was even described openly as a necessary part of making a business in such a type of market. How this became part of the business culture is maybe best illustrated by the companies made up by the former public employment

services that in both countries either went bankrupt or was bought up by private competitors. They couldn't with its former public service culture of giving equal access to services compete in such a market (Bredgaard and Larsen 2008). The public authorities reacted as expected to this in political unacceptable problem of creaming and parking by making more regulation of the market. In both The Netherlands and Australia by putting more demand to services into the contracts, and to differentiate prices due to the clients work ability and furthermore in Australia by making it impossible for clients to switch provider (which over time would show on the providers case-load if they just parked a group of their clients. The type of new public regulation however creates other type of problems as described above in relation to the flexibility given the providers to design services and it tends to build of a general mistrust between the public purchasers and providers. For example whether the assessment of the clients work capacity is made trustworthy or providers are only driven by contractual made incentives. This makes this a difficult dilemma to mitigate in the marketization processes.

When it comes to the risk of creaming and parking, we do not have any indications of this taking place in Denmark under conditions of performance related pay (present under the second wave of marketization). On balance, performance-related pay seems to have created problems with responsiveness rather than equity; under these 'people processing' functions subject to performance-related pay, everybody more seems to have been treated equally badly. As already mentioned, was mandatory pay for performance models in Denmark abolished around 2010 and the municipalities were given flexibility to decide upon level of performance-related payment themselves. Consequently, we have observed a general reduction in the use of performance-related payment (Breidahl and Larsen 2015).

Germany has adopted only a very cautious and limited version of payment by results, using two mechanisms: placement vouchers and procured job-placement schemes. Vouchers involve no payment except in the case of a job placement. Procured schemes, by contrast, usually comprise a combination of activation and placement services, with only the placement component paid by results at the same rate as placement vouchers. Consequently, the result-based payments account for only a very small part of the contracts, thus giving little incentive for 'creaming and parking'. Another barrier to creaming and parking in German procured activation schemes is, like in Denmark, the small contracts and relatively homogeneous clientele. These schemes are procured at the local level for particular client groups in the locale such as single mothers, young people, or older people. In practice, client groups are never as homogeneous as laid down in the contract; nevertheless, the range of client profiles within a contract is far smaller than in Britain's 'black box' system, leaving much smaller scope for creaming and parking.

In the UK, we find strong evidence of creaming and parking, consistent with other studies on performance-related pay in UK welfare-to-work programmes (e.g. Rees et al 2014) as well as the Work Programme's own performance data. The latter reveal worse performance for Employment Support Allowance (ESA) claimants than for Jobseeker Allowance claimants (JSA). Some of the reasons for

creaming and parking are related to the material incentives and constraints created by the payment scheme. The DWP has to some extent attempted to mitigate the effects of pay for performance arrangements by agreeing on minimum standards, which are accessible in the public domain, with the Work Programme contractors, and by introducing differential pricing. Despite differential pricing and defined minimum standards there are a number of additional aspects of the Work Programme that are conducive to creaming and parking. The first is the diverse clientele of the Work Programme, which providers quickly assess, categorize, and sort. There is considerable scope for sorting clients according to their distance from the labor market within payment groups because they cover an extremely wide range of people. There is also a problem with resource scarcity, which is intensified by profiteering and transaction costs. It intensifies the need to sort clients, to divert resources in a very instrumental way. Also the ‘flexibility’ of the ‘black box’ gives provider management the discretion to organize creaming and parking (Greer et al. 2017).

4. Conclusion and further research

In this report, we have described and examined how marketization of public employment services have taken place in a number of Western countries since the late 1990s. This started in Australia and the Netherlands in the 1990s, with Denmark, Britain, Germany and a number of other countries following suit in the 2000s. Providing insights from five different country cases have allowed us to reach a better understanding of the diverse developing trajectories of marketization.

The empirical insights clearly indicate how a number of dilemmas inherent to marketization of PES are not unique to one specific national setting: We have to do with more recurring dilemmas that take place across time and space and in different national settings. Insights from the five cases also shows how the polarised debate around if we should do marketization of employment services or not is much more complicated than that. Marketization is not only a question of whether employment services should be run by public services or private providers (or whether the one is more effective than the other): This is just as much a question of the type of transaction between public authorities and non-public providers. The level of marketization have been different in the five countries, but for all countries applies that the public authorities still have to secure accountability for the public financed services (with the demands to providers that follows from that) and that non-public providers of employment services also was part of the services even before marketization was articulated as such. The research on marketization of employment services seems somehow to have followed the focus point from the often ideologically discussion of marketization or not, rather than paying attention to exactly this, namely the type of transaction between public authorities and non-public and the different type of dilemmas and trade-offs inherent in the various forms of these. As an example, our cases show how the interaction between the public purchaser and the non-public providers can take form from a purely contractual based relation to a partnership-based relation: Both can be considered as different forms of marketization. In especially Australia (and in part the UK) we have witnessed how an attempt to make very competitive markets have

required high public regulation (to secure competitiveness and also address unintended political unacceptable problems), while Denmark has gone in the other direction with a more partnership-based model with local and low regulation (minimizing transaction costs and making room for more flexible services), which though can raise new problems in regard to risks of unfair competition or even corruption. Therefore one must pay attention to the various forms of models and transactions when analysing this area.

These insights point at some relevant research questions to be addressed when cases of marketization of employment services are to be analysed in future research:

- What characterises the type of transaction in place between the public authorities/purchaser in regard to the services provided by the non-public providers? (level of public decision making, level of competitive tendering, level of regulation through contracts, level of prescriptive services/room for design of services, level of defined target groups a priori, type of services to be delivered (generalised vs. specialised), level of performance related payment of providers, level of possible client choice, etc.
- What type of trade-offs and dilemmas are affiliated with the type(s) of transaction applied and how does this look like in the specific context analysed?
- How does this impact the dispositions and behavior of the public authorities/purchasers, the non-public providers and other involved actors? (e.g. the clients)
- How do these relations and transactions impact the content of services and how does this impact the experiences of the service receivers (clients) and their employment outcomes?

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